



City of Albuquerque

Legislative File Number O-06-41 (version 1)

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## **CITY of ALBUQUERQUE SEVENTEENTH COUNCIL**

Creating A New Section 6-1-1-14 ROA 1994, Requiring That All Real Property Be Equipped With Low Water Use Plumbing Fixtures As Of The Sale Or Other Transfer Of Ownership Of That Property.

## **CITY of ALBUQUERQUE SEVENTEENTH COUNCIL**

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE THAT:

Section 1. SHORT TITLE. Sections 1 through 7 of this ordinance shall be cited as the "Plumbing Fixture Retrofit on Sale Ordinance".

Section 2. DEFINITIONS. As used in the Plumbing Fixture Retrofit on Sale Ordinance:

LOW WATER USE PLUMBING FIXTURE. A plumbing fixture that meets the requirements of the New Mexico Uniform Plumbing Code as adopted by reference by the City of Albuquerque for installation in all new buildings or additions to existing buildings and includes faucets, showerheads, urinals and water closets.

PLUMBING FIXTURE. A faucet, showerhead, urinal or water closet.

REAL ESTATE AGENT. Any person required to have a qualifying broker's license or an associate broker's license pursuant to the requirements of §§61-29-1 through 61-29-27 NMSA 1978.

Section 3. MANDATORY USE OF LOW WATER USE PLUMBING FIXTURES

All plumbing fixtures located on any real property within the City of Albuquerque shall be low water use plumbing fixtures upon the transfer of ownership of the property on which the fixture is located.

(A) It shall be the responsibility of the owner of any property to ensure that all plumbing fixtures within the property are low water use plumbing fixtures prior to the sale or transfer of any ownership interest in such property.

(B) No real estate agent shall engage in the business of charging an advance fee or contract for collection of a fee in connection with a contract under which the real estate agent undertakes to promote the sale of any real estate if such real estate does not have low water use plumbing fixtures.

(C) A person who purchases or otherwise accepts any ownership interest in any real property, except for transfers of property effective upon the death of the property owner,

when such property contains plumbing fixtures that are not low water use plumbing fixtures shall be required to retrofit all such fixtures with low water use plumbing fixtures within 60 days of the acceptance of that ownership interest.

(D) A person who purchases or otherwise accepts any ownership interest in any real property, except for transfers of property effective upon the death of the property owner, where the previous owner has not retrofitted the property with low water use plumbing fixtures shall have a cause of action against that previous owner and against any real estate agent of the owner for three times the cost to retrofit the existing plumbing fixtures plus attorneys fees and costs.

(E) The Mayor, pursuant to the procedures of § 6-1-1-11, shall have the right to inspect any property for compliance with the requirement to low water use plumbing fixtures.

Section 4. PENALTY. Each and every violation of this ordinance is a criminal violation subject to the provisions of Section 1-1-99 ROA 1994.

Section 5. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Section 6. COMPILATION. This ordinance shall be incorporated in and compiled as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

Section 7. EFFECTIVE DATE. This ordinance shall take effect on January 1, 2010.

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